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United States Department of Agriculture  
Rural Development

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Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service  
Washington, DC 20250

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The Honorable William Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

RE: The availability of television network programming to rural viewers under the  
Satellite Home Viewers Act, RM No. 98-9335

Dear Chairman Kennard:

The Rural Utilities Service (formerly the Rural Electrification Administration) is a rural development agency of the United States Department of Agriculture which has promoted the universal availability of a broad range of telecommunications and information services in rural America for nearly fifty years.

The Rural Utilities Service (RUS) urges the Federal Communications Commission (FCC) to give expedited consideration to defining terms in the Satellite Home Viewers Act (SHVA). These terms have become critical in recent court rulings interpreting the SHVA which will have a profound impact on rural satellite television subscribers.

The July 10, 1998 ruling of the Federal District Court for the Southern District of Florida could interrupt the delivery of network programming via satellite to millions of Americans. The impact of such action will fall heavily on rural America, particularly in areas unserved by cable. Rural access to news, weather, sports and entertainment programming from network sources should be protected.

The SHVA balanced the critically important principle of localism in broadcast television with the principle of universal access to information. Unfortunately, the SHVA is being applied in a manner which could leave rural consumers without access to network programming either via broadcast signal or satellite. Central to the District Court's decision to preliminarily enjoin satellite delivery of network programming to certain viewers in *CBS Inc., et al v. PrimeTime 24 Joint Venture* Case N. 96-3650-CIV-NESBITT (S.D. Fla. July 10, 1998) is the interpretation of the phrases "over the air signal of grade B intensity" and "unserved household" in the SHVA.

The SHVA permits satellite delivery of network programming to households unserved by a local network affiliate. It defines an "unserved household" as a household that "cannot receive, through use of a conventional rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission)."

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The Congress intended the Commission to have an important role in the implementation of the SHVA. Under the pending injunction, citizens risk losing access to network programming even if they do not receive an "over the air signal of grade B intensity."

While the Commission has defined grade A and grade B contours from the purposes of tower siting and multiple ownership rules, it has not for the purposes of the SHVA. The SHVA focuses on the ability of the individual viewer to receive a signal of adequate quality, not on the ability of a broadcaster to transmit such a signal. A more precise definition of signal strength from the perspective of the viewer is needed to ensure that citizens who do not receive a viewable signal from a local network affiliate do not lose their satellite access to valuable network programming.

The viewer is the central focus of the SHVA. A precise definition of signal strength for the purposes of the SHVA will also help prevent programming from being marketed in a way that violates the SHVA and harms the legitimate interests of local broadcasters.

Terrain has a significant effect on the ability of an household to receive a viewable broadcast signal. For example, rural viewers in valleys, or mountainous areas may be within a grade A or B contour as currently defined, but in fact, be unable to receive a "signal of grade B intensity." The Rural Utilities Service notes the excellent work of the National Telecommunications and Information Administration's Institute for Telecommunications Sciences on the availability of alternate methods to determine signal strength. The Commission should carefully study this research. Viewers who have a right to receive satellite delivered network programming under the SHVA should not be disconnected from an important source of information.

The Rural Utilities Service respectfully urges the Commission to act expeditiously to uphold the legitimate right viewers have under the SHVA to network programming. The Commission should adopt a definition of signal strength which ensures that all citizens have meaningful access to network programming, either through a local network affiliate or via satellite. There should be no gaps in the availability of network programming.

Sincerely,



Christopher A. McLean  
Deputy Administrator  
Rural Utilities Service

cc:

Commissioner Susan Ness  
Commissioner Harold Furchtgott-Roth  
Commissioner Michael Powell  
Commissioner Gloria Tristani